

JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS
455 Golden Gate Avenue
San Francisco, California 94102-3660

Report Summary

TO: Members of the Judicial Council

FROM: Family and Juvenile Law Advisory Committee
Hon. Mary Ann Grilli and Hon. Michael Nash, Co-chairs
George Nielsen, 415-865-7670; Bonnie Hough, 415-865-7668;
Ruth McCreight, 415-865-7666

DATE: March 30, 2000

SUBJECT: Family Law Facilitators and Information Centers: Disclosures; Title IV-D Child Support: Training for Clerks (approve Forms 1294 and 1294.5; adopt Cal. Rules of Court, rule 1280.11) (Action Required)

Issue Statement

Family Code section 4252(b) requires that standards for clerk training be adopted to ensure that clerks involved in Title IV-D child support cases receive information and training concerning child support laws and procedures. Family Code sections 10015 and 15010(i) require the Judicial Council to create any necessary forms for litigants using the services of a family law facilitator or family law information center to inform them of the nature and limited scope of those services. New Forms 1294 and 1294.5 have been created to fulfill those requirements.

Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective July 1, 2000, adopt:

1. Rule 1280.11 of the California Rules of Court, to provide a standard of training for court clerks assigned to Title IV-D child support cases and approve;
2. *Office of the Family Law Facilitator Disclosure* (Form 1294), to clarify the type and level of services offered to litigants by the family law facilitator; and
3. *Family Law Information Center Disclosure* (Form 1294.5), to clarify the type and level of services offered to litigants by the Family Law Information Center.

Rationale for Recommendation

These forms and this rule are necessary to comply with the requirements of Family Code sections 10012, 15010(i), and 4252(b).

Alternative Actions Considered

Because the Judicial Council is directed by statute to develop these standards and forms, no alternative actions were considered.

Comments From Interested Parties

The forms were circulated for comment December 23, 1999, as item W00-12. In addition to the standard mailing list used for soliciting comments, the proposal was sent to all family law facilitators, child support commissioners, district attorney family support divisions, and the Department of Social Services as well as to the numerous attorneys and organizations with a focus on family law throughout the state. Responses were received from 28 commentators, none of whom disagreed with the need for the rule or the appropriateness of the forms. The comments were mainly suggestions to improve the format and clarity of the rule and forms.

Staff members analyzed all of the comments and made recommendations, which were considered by the Family and Juvenile Law Advisory Committee. A comprehensive table summarizing the comments and the committee's responses is attached, beginning at page 6.

Implementation Requirements and Costs

Following established procedures, camera-ready copies of the forms will be delivered to the courts and to commercial Judicial Council forms publishers. The courts will make copies available to the public. In addition, copies of the forms will be posted to the California Courts Web site. There are no costs additional to the normal costs courts incurred in providing forms.

The texts of the proposed rule and forms are attached at pages 3–5.

Comments for
Family Law Rule (Cal. Rules of Court, rule 1280.11)
Office of the Family Law Facilitator Disclosure (Form 1294)
Family Law Information Center Disclosure (Form 1294.5)

	Commentator	Position	Comment on Behalf of Group	Comments	Committee Response
1.	Deborah Mullin Family Law Facilitator Santa Barbara County Superior Court	A		a) Rule 1280.11 1) The rule doesn't specify any duration for the "class."	a) 1) Recommend no less than six hours of training.
2.	S. Simonin Legal Secretary Legal Services of Northern California	AM		a) Rule 1280.11 1) Needs a time standard. One continued class can be only one hour long. It should state no less than eight hours of continuing education. This would be more effective.	a) 1) Recommend no less than six hours of training.
3.	Carla Khal Facilitator Tulare County Superior Court	AM		a) Form 1294.5 1) Suggest rewording the first sentence. Leave out the "have" before "are low-income."	a) 1) Agree.
4.	Cathy Scoggin Title 4-D Court Clerk Yolo Superior Court	A		a) Rule 1280.11 1) Training for court clerks should be for at the very least the lead clerk (but both or all would be helpful). 2) Great form for the facilitators and clerks helping them.	a) 1) Agree. 2) Agree.
5.	Norma Castellanos- Perez Commissioner Tulare County Superior Court	A		a) Form 1294.5 1) Has a typo in line 1; last word "have" needs to be retyped. Otherwise, agree with proposed changes.	a) 1) Agree.
6.	Terrie Jarrett Legal Process Clerk II Calaveras County Superior	AM		a) Rule 1280.11 1) Is training material to be made available in written form for clerk, or is class training	a) 1) Both should be offered.

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	Court			going to be required? 2) Would appreciate written training material.	2) Agree.
7.	David Jetton Court Manager LA County Superior Court	AM		a) Rule 1280.11 1) Who would actually be required to have the training (courtroom clerks, office staff, or administrators)? 2) Since the duties of the courtroom clerks and office staff are ministerial and they do not give legal advice, would the training be that valuable? 3) Who would give the training, and would it be given on site and on more than one day? 4) It would be impossible to send the entire staff to one training session.	a) 1) Courtroom clerks and counter and processing clerks. 2) The goal is to have them understand forms and processes and encourage uniformity and accuracy. 3) Judicial Council will offer a variety of training opportunities. 4) Agree.
8.	Phrasel L. Shelton Rules Committee Chair San Mateo County Superior Court	A		a) Agree.	a) Agree.
9.	Robert Krotzer Family Law Manager San Diego County Superior Court	A		a) Agree. b) Form 1294.5 1) There is a typo at the end of the first line. "Have" should be taken out.	a) Agree. b) 1) Agree.
10.	Merry Mayes Court Services Coordinator Stanislaus County Superior Court	AM		a) Rule 1280.11 1) Training for IV-D clerks is an excellent idea. b) Forms 1294 and 1294.5 1) Contain conflicting grammar, referring to "you" and then "I." Possibly a "separation line" to differentiate between the two.	a) 1) Agree. b) 1) Agree.
11.	Tressa S. Kentner Court Executive Officer San Bernardino County Superior Court	A		a) Form 1294.5 1) Either the portion of the form relating to eligibility must be eliminated and handled on another form, or it needs to be expanded to	a) 1) Form will be revised to reflect suggestions.

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				ask questions relating to number of people in the household and the source of income. A possible sample is attached.	
12.	Joe Fabrizio Los Angeles County Superior Court	AM	Y	a) Rule 1280.11 1) Have no objection to the proposition of training. However, have concerns because of periodic staffing shortages, so it would be helpful to know how long the training is expected to take. 2) Probably would need several sessions to rotate clerks through the training unless the courts are willing to close on a given day. 3) Have various clerks to cover on a temporary basis, so maybe the rule should provide for training for courtroom clerks whose primary and regular assignments include Title IV-D cases. 4) The interpretation of the phrase “court clerks” would exclude from the training both office support clerks and assistants to the court clerks.	a) 1) Agree—training will be provided at different times and places. 2) Agree. 3) Agree. 4) Intent is to cover all subcategories of clerks.
13.	Julie Paik Family Law Facilitator Los Angeles County Superior Court	AM	Y	a) Form 1294 1) The first sentence says, “Parties who have questions about family law issues, including child support,” etc. Recommend to rephrase something like, “Parties who have questions about child support. . . .” Since LA County does not supplement the funding and, are truly limited to child support and related issues, not general family law issues. b) Form 1294.5 1) There is a typo at the end of the first line.	a) 1) Will modify to reflect statute—child support, spousal support, and health insurance. b) 1) Agree.

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				“Have” should be taken out.	
14.	Patty McCrea Court Services Supervisor Riverside County Superior Court	A		a) Rule 1280.11 1) Standards and training for staff who are processing Title IV-D cases is a great idea. There are so many ways to proceed in these cases—it gets complicated. b) Form 1294.5 1) Concern that it may limit those who are served, although a large percentage of those seeking assistance fall under the low-to middle-income bracket. 2) A uniform statement as to the role of the facilitator is a good idea. 3) Already have a local form advising parties of the role of the facilitator.	a) 1) Agree. b) 1) The family law information centers are limited by statute. 2) Agree. 3) New legislation requires specific language.
15.	Cathie Rouse Superior Court Clerk II San Luis Obispo County Superior Court	A		a) Rule 1280.11 1) Agree. 2) The information acquired at the conference attended was tools used every day in the court and provide excellent reference material.	a) 1) Agree. 2) Agree.
16.	Deborah DeMarchi Facilitator Mendocino County Superior Court	A		a) Agree.	a) Agree.
17.	Diane Altamirano Family Law Facilitator Imperial County Superior Court	AM		a) In counties (like Imperial) with no additional funding (besides 1058), it is important to be very specific up front that the only issues the FLF can handle are child support, spousal support, and health insurance.	a) Agree.
18.	Laura Masunaga Commissioner Siskiyou County Superior Court	AM		a) Form 1294.5, line 1: Delete “have” at end of sentence.	a) Agree.

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19.	Theresa Gary Facilitator Kern County Superior Court	AM		a) Rule 1280.11 1) Is training limited to court clerk? The supervising clerk of the superior court needs training also (or her/his designee). 2) Suggest that instead of one class, make it a minimum of four hours or eight hours training time. 3) Make training mandatory two times per year. b) Form 1294 1) Suggest rewording in line 4 from “preparing your own” to “with the.” c) Form 1294.5 1) Delete the word “have” in line 1.	a) 1) Intent is to cover all clerks working on IV-D. 2) Recommend no less than six hours of training. 3) May divide up into two sessions. b) 1) Agree. c) 1) Agree.
20.	Judith E. Harding Family Law Section Chair Bar Association of San Francisco	AM	Y	a) Proposed rule 1280.11 is acceptable as drafted. b) Form 1294 1) This form was confusing, especially in the manner in which the family law facilitator may provide information and services to the other party in the case. The Family Law Section members felt that this should be clarified. It is true that there is a clear statement in the preceding paragraph, to the effect that the family law facilitator is a neutral person and not the lawyer of any party to the case. However, the section members felt that the language in the third paragraph should be clarified. 2) Perhaps a sentence could be added to the third paragraph as follows: “Keep in mind that the family law facilitator is a neutral person who will not be an advocate for either side.” c) Form 1294.5 is confusing	a) Agree. b) 1) Will clarify third paragraph. 2) Will rework sentence.

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				<p>1) In paragraph 6, the form asks for monthly income after deducting court-ordered payments. However, it is likely that a person filling out this form would think that the court-ordered payments mentioned in this paragraph are exactly the subject of his court hearing on that date. If what is intended by this form is to know the amount of court-ordered payments for children unrelated to these proceedings, that should be spelled out. However, in the discussion at the section meeting, at least one bench officer who is very familiar with child support calendar matters stated that it is increasingly the court's practice not to consider other court-ordered payments, especially in an AFDC case.</p> <p>2) This part of the form needs to be revised consistent with these comments.</p>	<p>c)</p> <p>1) This is based on requirements of FLIC statute; it will be reworked.</p> <p>2) Agree.</p>
21.	Christine Copeland Family Law Facilitator Santa Cruz County Superior Court	A		<p>a) Rule 1280.11—Agree.</p> <p>b) Form 1294</p> <p>1) Need Spanish translation of this form.</p> <p>2) Are FLFs required to keep this form on file forever?</p> <p>3) For repeat customers, do they sign one of these each time they come for services?</p> <p>c) Form 1294.5</p> <p>1) Delete the word “have” in line 1. Same questions with the FLF disclosure.</p>	<p>a) Agree.</p> <p>b)</p> <p>1) Agree.</p> <p>2) Yes.</p> <p>3) Yes.</p> <p>c)</p> <p>1) Agree.</p>
22.	Rita G. Mah Family Law Facilitator San Mateo County Superior	A		<p>a) Agree.</p> <p>b) Form 1294 and 1294.5</p> <p>1) Suggest capitalizing and bolding the words</p>	<p>a) Agree.</p> <p>b)</p> <p>1) Will rework.</p>

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	Court			<p>“no attorney-client relationship” on the second paragraph and “not confidential” on the third paragraph then put the next sentence as a new paragraph.</p> <p>2) See proposed interpreter’s declaration.</p>	<p>2) Disagree. Takes up space and adds unnecessary formality.</p>
23.	Gay Conroy Family Law Facilitator Ventura County Superior Court	AM		<p>a) Rule 1294</p> <p>1) Page 3 of the handout should be changed at the end of the first line. It should read: “The family law facilitator cannot assist you if you are currently being represented by an attorney.”</p>	<p>a)</p> <p>1) Disagree—Family Code section 10005(a)(1) indicates that facilitator can provide services if litigant is represented.</p>
24.	Sharol H. Strickland Court Executive Officer Butte County Superior Court	A		<p>a) Rule 1280.11</p> <p>1) If annual training is adopted as the standard, court operational needs would prohibit all designated staff from attending the training at the same time.</p> <p>2) Training opportunities would have to be made available several times a year at various locations throughout the state.</p>	<p>a)</p> <p>1) Agree.</p> <p>2) Agree.</p>
25.	Keri Griffith Court Program Manager Ventura County Superior Court	AM		<p>a) Rule 1280.11 should be amended to reflect that the Judicial Council should provide the training.</p>	<p>a) Other training may be acceptable.</p>
26.	Sylvia Hutson			<p>a) Form 1294</p> <p>1) Suggest changing the third paragraph to say, “Communications between you and the Family Law Facilitator are not confidential. The Family Law Facilitator may provide information and services to the other party in your case.”</p> <p>2) Make a new paragraph to say, “If you are</p>	<p>a)</p> <p>1) Agree.</p> <p>2) Agree.</p>

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				seeking legal advice or strategy and wish to discuss your case in confidence, you should consult with an attorney. Only you or your own attorney can represent you in court.”	
27.	Amy Silva Director, Family Law Operations Orange County Superior Court	AM		a) Rule 1280.11 1) Is this rule restricted to “court clerks”? This term traditionally refers to courtroom clerks called judicial assistants or other titles depending on the county. Staff who handle defaults, writs, and abstracts may be another classification. Clerk of the court functions cannot close down, therefore, if training off site is required. Offer several dates, so clerks can be sent in shifts or staggered. b) Form 1294.5 1) In line 1, remove “have.” Is the intent to have this kept by facilitator, FLIC, or party, or by all?	a) 1) Intent is to cover all clerk staff with primary IV-D responsibilities. b) 1) Agree. Intent is to be kept by facilitator and FLIC.
28.	Cynthia Denenholz Court Commissioner Sonoma County Superior Court	AM		a) Form 1294 1) Suggest adding the word “paternity” after “including” in line 2. 2) Delete the word “to” and change the word “preparing” to “prepare” in line 4. 3) Rephrase the last sentence to “The Family Law Facilitator cannot go to court with you.”	a) 1) Agree. 2) Agree. 3) Agree.